

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD F. STOKES  
JUDGE

1 THE CIRCLE, SUITE 2  
SUSSEX COUNTY COURTHOUSE  
GEORGETOWN, DE 19947

February 9, 2010

Darrell J. Baker, Esquire  
Leroy A. Tice, Esquire  
702 King Street, Suite 600  
P.O. Box 1675  
Wilmington, DE 19899-1675

RE: *State of Delaware v. Dana I. Goodman*  
Def. ID# 0805001946

Dear Mr. Baker and Mr. Tice:<sup>1</sup>

Pending before the Court is the motion for a modification of sentence which defendant Dana Goodman (“defendant”) has filed. I deny the motion for the reasons set forth below.

The pertinent portion of defendant’s sentence provided that he be placed at Level 5 for 15 years, with credit for 7 days served, suspended for probation after 4 years **and** upon successful completion of the Family Problems program. In his motion seeking a modification of his sentence, defendant represents the following. Department of Correction (“DOC”) transferred him from Sussex Correctional Institution to James T. Vaughn Correctional Center (“JTV”). He believes he was transferred there because Family Problems is offered only at JTV. Upon transfer

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<sup>1</sup>Counsel are deemed to have entered their appearance on behalf of defendant Dana Goodman by filing the pending motion seeking a sentence modification.

to JTV, he was placed in the Security Housing Unit (“SHU”), allegedly for protective custody. Those in the SHU are kept in their cells 23 hours a day and only allowed out 1 hour a day. Thus, they are not able to engage in the same activities as are the other inmates. Most sex offender inmates are kept in the “E” building, “presumably to be kept safe.” Defendant maintains that he is being treated differently than are other sex offenders, and that difference in treatment violates DOC’s policies to treat inmates fairly, equitably and humanely. He complains of violations of DOC policies which allow inmates some input in their classification, with some exceptions, and which authorize providing inmates with written decisions on these matters. He maintains that his placement in the SHU is arbitrary. He further alleges a violation of his right to due process as established by the United States Constitution and DOC’s policies. Therefore, he requests his sentence be modified to provide he be removed from protective custody to Unit “E”, which houses the other sex offenders, so that he can start and finish the Family Problems program.

Defendant seeks this relief by way of Superior Court Criminal Rule 35(b). Superior Court Criminal Rule 35 is a vehicle for a defendant to obtain a sentence correction or a sentence reduction. Defendant is not seeking either of those remedies. Instead, he is requesting that the Court direct DOC to classify defendant in a certain manner.

DOC, and not this Court, has the power to classify an inmate. 11 *Del. C.* §§ 6504 and 6529. *Accord Foster v. O’Connell*, 2002 WL 480961 (Del. Super. March 13, 2002). Even after the Institutional Classification Board makes a recommendation regarding classification, the Warden maintains “the power to veto decisions of the Board.” 11 *Del. C.* § 6529(d). Thus, this Court does not have the power just to enter an order based on the pending motion instructing that as a part of its sentence, defendant must be moved from the SHU to another location.

The law, as examined below, shows that a court only interferes with a classification decision where it is established the prison authorities' decision regarding classification is an arbitrary and capricious abuse of discretion or that decision constitutes a clear deprivation or infringement of an inmate's constitutional rights. The appropriate vehicle for the establishment of such facts is by way of a suit seeking an injunction or an extraordinary writ, such as one for mandamus or prohibition.

The Courts repeatedly have explained:

Courts are generally very reluctant to interfere with the administration of prisons. [Citations omitted.] The administration of prison systems is not "readily susceptible to judicial oversight and fall[s] within the auspices of the Executive branch of our State government." *McCoy v. Taylor*, ... [1998 WL 842322, at \* 3 (Del. Ch. Nov. 12, 1998)]. "Only where a complaint adequately pleads an arbitrary and capricious abuse of discretion by prison authorities, or a clear deprivation or infringement of an inmates constitutional rights, will this Court intervene in matters of internal prison administration." *Id.*

*Riley v. Taylor*, 1999 WL 41279, \*3 (Del. Super. Jan. 6, 1999), *rearg. den.*, 1999 WL 1611424 (Del. Super. March 1, 1999). *Accord*, *Hall v. Hudson*, 2005 WL 2249559 (Del. Super. June 16, 2005), *aff'd*, 889 A.2d 282, 2006 WL 58698 (Del. Jan. 9, 2006) (TABLE); *State v. Webster*, 2001 WL 789657 (Del. Super. May 24, 2001); *Robinson v. Taylor*, 1999 WL 459198 (Del. Super. June 28, 1999).

In order to place the matter correctly before the Court, an appropriate lawsuit would have to be filed. The litigation setting was explained in *Riley v. Taylor*, 1999 WL 1611424, \* 1 (Del. Super. March 1, 1999):

It is well-established in Delaware that inmates have no state-created liberty interest in their classification status. [Citation omitted.] An inmate's classification at a specific security level is not an interest protected by the Fourteenth Amendment. [Citation omitted.] Placement of inmates within the prison system is

within the wide spectrum of discretionary actions that traditionally have been the business of prison administrators, rather than the courts. [Citation omitted.] A security classification, by itself, does not constitute retaliation or a violation of an inmate's constitutional rights. [Citation omitted.]

Suits based on classification issues and asserting violations of constitutional rights (*Riley v. Taylor, supra*); seeking injunctions (*McCoy v. Taylor, supra*); seeking writs of *habeas corpus* (*Winward v. Carroll*, 901 A.2d 121, 2006 WL 1547973 (Del. June 5, 2006) (TABLE)); or seeking writs of mandamus and/or writs of prohibition (*Foster v. O'Connell, supra*; *Robinson v. Taylor, supra*) have been problematical. For example, in the case of *McCoy v. Taylor, supra*, the complaint seeking an injunction was based on inmates being placed in confinement with restrictions identical to those imposed on defendant. The Court of Chancery concluded that the inmates failed to state a claim for equitable relief.

In conclusion, defendant's motion is denied. This Court does not have the authority to classify him and his classification status cannot be reviewed within the context of a Rule 35 motion.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary's Office  
Stacey Cohee, Esquire